

'A toxic work environment'

Testimony alleges culture of intimidation, favoritism during former police chief's reign

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Newly-released transcripts of sworn testimony contain allegations of favoritism and intimidation during the tenure of former Duxbury Police Chief Mark DeLuca.

The transcripts, taken in October of 2009 at the height

SPECIAL REPORT

of the pitched battle over DeLuca's contract, detail allegations such as a dispatcher being paid even though he was out on a non-work-related injury, union members being coerced into endorsing a selectman, an officer working on two of DeLuca's homes while he was on duty and an officer who says he was unjustly charged with a crime because the chief didn't see him as a "team player."

The transcripts were ruled public earlier this year and a redacted version of the testimony was released last week.

DeLuca was informed, in a letter from Town Manager Richard MacDonald in 2009, that his contract would not be renewed when it expired in November. This provoked a firestorm of controversy from



Written transcripts of interviews with unnamed police officers paint an unflattering picture of the Duxbury Police Department during the tenure of former Chief Mark DeLuca. Defenders of Chief DeLuca called the allegations a "sham" and part of a plot to force the chief out.

File photo

the chief's supporters in town, both inside the department and in the community at large, who wanted to see the chief stay.

The Board of Selectmen took a 2-1 vote in an attempt to overrule MacDonald's decision, but Town Counsel Robert Troy said that since that contract was "dying a natural death" it wasn't technically a firing, and the selectmen lacked the authority to force MacDonald to offer DeLuca another contract.

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TIMELINE

May 1999: Mark DeLuca, a Boston Police Sergeant, is hired as Duxbury Police Chief. Acting Chief Donald Sjostedt, who had previously been involved in litigation against the town, is bypassed for job.

July 20, 2009: Selectmen vote 2-1 to overturn the decision by Town Manager not to renew the contract of chief when it expires in November. Vote later determined by Town Counsel Robert Troy to be legally invalid.

March 26, 2009: In a letter signed by Lt. Sue James, Lt. Lewis Chubb and Lt. Roger Banfill, the Duxbury Police Commanders Association announced a vote of no confidence in Town Manager Richard MacDonald and criticized him for disparate treatment of town employees, failure to negotiate in good faith with the union and lack of support for the chief. "The Police Department is running smoothly under Chief DeLuca's leadership," they wrote.

September 28, 2009: Supporters of Chief DeLuca fill the selectmen's meeting room to present a petition and call on board members to overrule the town manager's decision or remove him from his position. During the meeting the spouse of a former police officer confronted the chief with documents he claimed were proof of changed reports and said his license plate number was written down when he refused to sign the petition at the town transfer station.

October 5, 2009: Selectmen reach tentative severance deal with Chief DeLuca for a reported \$240,000, however the final agreement was never signed and two weeks later Selectmen rescind the deal.

October 19, 2009: During meeting, Selectman reveals that among the allegations against police chief are abuse of overtime. Town officials refuse records request to disclose specifics of allegations. At the same meeting, MacDonald announces plans to form a search committee to find Duxbury's next chief.

October 23, 2009: In a statement from the Board of Selectmen announcing the rescission of the severance agreement, it is revealed that former Chief DeLuca has been placed on paid administrative leave and ordered to "refrain from acting in any capacity relating to the Duxbury Police Department."

Nov. 2, 2009: Stephen Doherty is appointed interim police chief. DeLuca and his attorney ask to re-open negotiations but the town pulls the settlement offer.

Nov. 20, 2009: Chief DeLuca's contract expires. He is later appointed police chief in Cohasset.

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the patrolman into his office.

"I handed the chief the violation, the civil summons, and he turned and put it in a paper shredder," he said in the transcript.

Although he claims the chief made a public display of getting rid of the charges, the patrolman said he has never been official cleared and has no documentation saying he did nothing wrong.

"He knew that they charged me with no crime other than just to rattle my cage, to pull me back in line, to get me to do whatever they want to do so down the road he could say you owe me one," he said.

No-show job alleged

An incident mentioned by several of the police officers in the transcripts is the case of a dispatcher who was allegedly paid for time he did not work.

This man, whose name is redacted from the document, suffered a non-work related injury, according multiple sources in the transcript.

"While he was out, a paycheck continued to come to the Police Department for him. His daughter came in frequently to pick it up. And on his shift they had different dispatchers filling in at different times for him," said one patrolman, who alleged this went on for eight months or more. "They were filling his shift with overtime as if he was just out."

He said he regularly saw paychecks for the man out in the police station's dispatch area throughout his absence, according to the transcript.

"Everyone in the department basically knew that he was off duty; that he [the dispatcher] was not working," said the sergeant, who said he knew the man's absences were being filled with overtime because he was responsible for creating the nightly roster.

When the town's attorney asked the sergeant why the chief would want to make sure the dispatcher received a check even though he may not be entitled to it, his reply was: "I was offered the same offer, the deal."

He told the town's attorney he was approached by a female member of the department while hospitalized with a non-work related injury.

"She came to me expressing that the chief was very concerned about me and that he ... wanted to take care of me," the sergeant said. He said he told the woman that he wanted to be docked the appropriate sick time, and after he was discharged from the hospital he got a phone call from Chief DeLuca about the matter, and he again stated that he wanted to use sick time for the absence.

"In my opinion it was to leverage cooperation in the future, and that's something I don't want to partake in nor do

I buy into," the sergeant said. "I don't want to feel like I'm owned by anybody or feel like I'm in anybody's pocket for anything."

Union members felt pressured

The police officers quoted in the transcripts refer several times to a signature collection effort, where some officers were trying to get the patrolman's union to endorse Donato, who ran for selectman in the spring of 2009 and defeated incumbent Andre Martecchini.

The patrolman who was in the accident said he signed the endorsement, but only "under duress."

"I made it clear at a union meeting ... I didn't think it was the police union's business to endorse candidates with whom we would be negotiating contracts," he said. "I started feeling a chill in the air from these different people that already signed it that I wasn't a team player, that I wasn't going to play ball I'm well aware of what occurs if you don't play ball in the Police Department."

When asked by the town's attorney why he was so nervous about the accident being used against him, the patrolman said he believed it had to do with his speaking out against the endorsement.

Other officers reported similar misgivings with the petition.

"The police department over the past few years has been in my opinion a very toxic environment filled with, you know, this team or that team," said the sergeant. "You're either on the chief's team or you're not."

Donato said the endorse-

ment letter was posted on the union board at the police station, and there was nothing improper about it.

"That's part of the free speech rights of the union," he said. He added that he had no knowledge of any officer being pressured to sign the endorsement.

"I don't want to be a part of someone feeling pressured," he said.

The first patrolman interviewed in the transcripts claims he was punished for not signing the endorsement.

"I was moved to the midnight to 8 p.m. shift without explanation," he said. "I refused to sign a letter supporting the union endorsing a candidate for selectman."

Making it personal

Donato said he has been asking for copies of the transcripts since 2009, and believes the town had no real reason to withhold them. He also said that DeLuca himself had only recently received a copy, when it was made publicly available.

"The failure of them to produce this document had

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nothing to do with [the ethics investigation]," he said, calling it a "stall tactic."

He said that at the time of the dispute, he wanted DeLuca and MacDonald to sit down and work out their differences, but that MacDonald was determined to push DeLuca out. He claimed that MacDonald unfairly targeted the police department with an overtime audit (which found nothing, he said) and then didn't follow suit with the other departments in town. He also said the town continued to investigate DeLuca even after he was no longer a town employee.

"They didn't allow him to defend himself," he said. "For them not to show him the accusations show what a sham this was."

When contacted for comment, MacDonald said he didn't want to make any public statement about the transcripts at this time.

Current Duxbury Police Chief Matthew Clancy, who came to the department from Plympton last year, said he was aware of the transcripts but declined to comment publicly.

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Around the time the contract was set to expire, information surfaced — through public comments and an inadvertently leaked tape from a closed door board meeting — about allegations against DeLuca made by members of the police department. Selectman Chris Donato said at the time it was his understanding that the allegations would "go away" if DeLuca agreed to a settlement. The town put a six-figure settlement on the table, but DeLuca never signed and it was later revoked.

Donato voted to offer DeLuca the settlement, but says he now regrets that decision.

"Eventually I gave in," he said this week. "This whole investigation was a sham, it borders on extortion."

DeLuca took a job as police chief in Cohasset, where he remains today. A interim chief was eventually appointed by the Town Manager, and the investigation never resulted in any public findings.

Although the names are redacted, the transcripts, taken Oct. 5, 2009, include testimony from two patrolmen, a sergeant, the town's recreation director and a former part-time patrolman, dispatcher and mechanic. The questioner, whose name

is also redacted, says he is an attorney appointed by the town manager to investigate certain allegations against DeLuca.

The allegations paint a picture of a toxic workplace split between a pro-DeLuca faction and the rest of the department.

"I was trying to stay neutral, but as the members of my department who were pro-chief became more active, more vociferous and you see the things they're doing to try and get the chief a new contract ... then you see them be rewarded for their loyalty, it becomes a point where you just say enough is enough, I can't, I can't support this," said one patrolman.

Another patrolman who claims he was unjustly charged with a crime after a minor traffic accident said favoritism and intimidation was "par for the course" in the Duxbury Police Department.

Donato, however, called the allegations "bogus," and said the Board of Selectmen never had any input into the investigation because it was undertaken solely by MacDonald.

"I just felt the way the whole thing was handled was

wrong," he said. "They used that document to force Chief DeLuca out of his position."

The transcripts were never entered into evidence in any court action and neither DeLuca nor his legal representation were given the opportunity to cross examine any of the witnesses.

Multiple messages were left for DeLuca at his Cohasset office, but he did not return requests for comment by press time.

Man says he worked on house

A former part time officer and dispatcher alleged that DeLuca asked him to perform work on his private properties when he was supposed to be on duty.

The man was no longer a member of the department at the time of the testimony and admits he had a "falling out" with DeLuca.

"He just turned into a different person," the man said.

"... If you talked to certain people there, he disliked you; he wouldn't talk to you. I didn't want to get involved with all that. I just wanted to go and do my work and get out of there."

The man said he was working as a mechanic at the time when

asked him to replace a bathtub - during work hours, according to his testimony.

"It was something to the effect, you know, would you mind helping out [redacted] replacing my tub at the house in Whitman," he said.

The job took 8-9 hours, according to the man, who said he was not paid in any way (cash or gifts) by DeLuca.

He alleged he was asked to go back to the Whitman house to install a "surveillance kit," something he described as a set of "small little cameras you can hide." The kit was Duxbury Police Department property, he said.

Again, the officer said this was done while he was supposed to be working and took a full day. DeLuca asked him to remove the equipment about a week later, according to the transcripts.

In addition to the work at the Whitman house (DeLuca's home), the former officer said he also performed work on a property DeLuca owned in Weymouth while he was supposed to be working for the town. He said the work was over 2-3 days and involved running pipe, installing a dish-

washer and cleaning out trash.

"I was under his orders to do it," he said.

Charges 'unjustified'

One of the men alleges he was unjustly charged with negligent operation of a motor vehicle - a criminal charge - after a minor accident while on duty, according to the transcript.

However, Donato said that the fact that the patrolman was charged with a crime had nothing to do with any perception of him as "not a team player," but rather his driving record.

"It had to do with the number of accidents," he said.

In the transcripts, the patrolman says he was cornered by DeLuca shortly after receiving the citations, and DeLuca told him it was because of five prior incidents he was involved in on the job. He claimed that DeLuca said the department had to charge him "to protect themselves."

The patrolman said he was driving on Tremont Street near Town Hall just before Memorial Day, 2009, around 11:30 p.m. when he struck a skateboarder, who had been in the middle of the unlit street. He swerved to avoid the collision, but still clipped the skater with his side mirror, according to the transcripts.

Although the skateboarder had only minor injuries, the officer was upset.

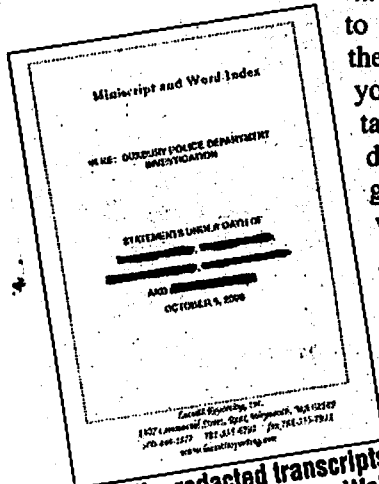
"I was in fear, I was petrified of what they could do to me, which is par for the course in our Police Department," the patrolman said. "I felt the department would try to ... hang me out to dry on an accident that was just that, an accident."

The sergeant interviewed in the transcripts happened to be on duty when this accident occurred, and said he felt the incident was clearly an accident, and that the driver had done nothing wrong.

"In my 16 plus years, whatever, of law enforcement experience I can read a car accident scene fairly well and look at the facts on the ground," he said. "There were no skid marks leading up to Officer [redacted] cruiser or to the point of impact. There was no excessive damage to the victim, the skateboarder. It was an unlit portion of the roadway. The victim admitted to being in the street. All these things were pointing to the fact that Officer [redacted] acted accordingly because the low damage to the vehicle is congruent with the minor damage to the victim, okay?"

He added that he had originally contacted the State Police to oversee the accident investigation because a Duxbury officer was involved, but they said no so the matter was handled internally, according to the transcripts.

The patrolman said he was initially under the impression



Read the redacted transcripts in their entirety on our Web site, duxburyclipper.com

that he was being summoned to the police station a few days later to receive the findings from the accident. Instead, the chief called him into his office, where he was handed a criminal citation for negligent operation of a motor vehicle.

The sergeant was shocked when he heard, and said there were "zero facts" to support the charges.

"In essence, they charged an officer with a crime yet never interviewed me as part of this internal investigation, never received a written report from me in this internal investigation, and to my knowledge never interviewed or took a report from Sergeant [redacted] either." (The accident happened during a shift change so two sergeants were on scene.)

The patrolman said he wanted to have a magistrate's hearing, where he felt he could demonstrate the charges had no basis. Sometime after the accident, Chief DeLuca called

Special report: Transcripts allege favoritism

How we got the transcripts

The Clipper learned of the testimony that forms the basis of this story shortly after it was recorded. The transcripts were mentioned at the time by Selectman Christopher Donato, who told the paper he had learned of "statements made under oath" regarding then Police Chief Mark DeLuca. Allegations against DeLuca were also mentioned by Town Counsel Robert Troy during an executive session meeting of the Board of Selectmen, a portion of which was accidentally broadcast over public airwaves.

In 2009, the town denied a public records request from the Clipper seeking the records. However, in a Jan. 10, 2011 letter, Town Manager Richard MacDonald said that the statements were indeed public record, citing an earlier opinion by Town Counsel Robert Troy.

The Clipper asked for the records again, and filed an appeal with the state supervisor of public records when Duxbury did not respond within the 10 days required by the Massachusetts public records law. MacDonald then issued a denial, saying that although the records were public the State Ethics Committee was investigating the matter. That decision was reinforced by a Feb. 15 letter from State Supervisor of Public Records Alan Cote.

However, once the ethics investigation concluded, the town complied with the public records request and a redacted version of the transcripts was eventually released last week. A spokesman from the State Ethics Commission said they had no publicly-available information on DeLuca.



Supporters of then-police chief Mark DeLuca pack a selectmen meeting in June of 2009 after it was announced that DeLuca would not receive a new contract.